IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 10TH OCTOBER 2007 / 18TH ASWINA 1929

Bail Appl..No. 6198 of 2007()

(CRIME NO.271/07 OF THE NALLALAM POLICE STATION)

PETITIONER/IST ACCUSED:

BINEESH, S/O.BALAN, MELEPANIKKASHAM HOUSE, PAYYADITHAZHAM, PANTHEERANKAVU, VELLAYIKODE AMSOM DESOM, KOZHIKODE.

BY ADV. SRI.K.A.SALIL NARAYANAN

RESPONDENT: COMPLAINANT:

STATE OF KERALA,
REP BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R. BASANT, J.

B.A. No.6198 OF 2007

Dated this the 10th day of October, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations under Sec.498A of the IPC. His wife is the complainant. A complaint was filed before the learned Magistrate and the same was referred to the police for investigation under Sec.156(3) of the Cr.P.C. The marriage took place on 23/4/06. No children are born in the wed-lock. The de facto complainant/wife alleges matrimonial cruelty of the culpable variety against the petitioner and others. The other accused have already been granted anticipatory bail by the Court of Session.

2. The learned counsel for the petitioner prays, the learned Public Prosecutor does not oppose the said prayer and I am satisfied that the petitioner can be granted anticipatory

bail. In coming to this conclusion, I take note of the reality of arrest and incarceration of the petitioner is likely to mar the matrimonial tie beyond repaid. I do further take note of the submission of the learned Public Prosecutor that no external injury whatsoever has been suffered by the de facto complainant on account of the alleged cruelty. Appropriate conditions can, of course, be imposed on the petitioner.

3. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioner shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 17/10/07. He shall be released on regular bail on his executing a bond for Rs.25,000/- with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 18/10/07 and 19/10/07 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months. Subsequently, he shall so make himself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioner does not appear before the learned

Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if these directions were not issued at all;

(iv) If the petitioner were arrested prior to his surrender on 17/10/07 as directed in clause (i) above, he shall be released on his executing a bond for Rs.25,000/- without any sureties undertaking to appear before the learned Magistrate on 17/10/07.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge